

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4377 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MADHAVLAL SHAH

Versus

RAYSINH JENABHAI RATHOD

Appearance:

Ms.Sangeeta Pahwa for MR PM THAKKAR for Petitioners
MR Ketan Dave for Respondent No. 1
Ms.Nandini Joshi, ASSTT GOVERNMENT PLEADER for
Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 13/10/2000

ORAL JUDGEMENT

The present petition is filed under Article 227 of the Constitution of India challenging the legality and validity of the order passed by the Gujarat Secondary Education Tribunal ("the Tribunal" for brevity) dated

11.4.1990 in Application No.168 of 1986. By the aforesaid order, the dismissal order passed against respondent no.1 dated 27th May 1986 was quashed and set aside and the petitioner was directed to reinstate respondent no.1 with full back wages. The Tribunal was pleased to hold that the order of dismissal was illegal and therefore, the same was quashed and the aforesaid order was passed. The Tribunal has also observed that the inquiry officer's report cannot be relied upon and the charges levelled against respondent no.1 cannot be held to be proved. The Tribunal was pleased to hold that the petitioner trust had followed a wrong procedure and that letter dated 9.4.1986 being exhibit 10/4 is sought to be put forward as a proposal under section 36(1)(b) of the Act. On perusal of the said letter, it becomes clear that the Tribunal has rightly recorded a finding that the said letter cannot be treated as a proposal under section 36(1)(b) of the Act. The Tribunal has noted in terms that the heading of the said letter is, "relating to failing of Laprabhai in the annual examination" Instead of that, the heading should have been for, "dismissal of the applicant". The Tribunal is right in its observations and in its judgement. The Tribunal has said that in view of the aforesaid observations there cannot be any question of deemed approval. Taking into consideration the totality of the judgement of the Tribunal the same is not required to be interfered with by this Court. Hence the petition fails.

2. Mr.Ketan Dave, learned advocate submitted that the Tribunal by its judgement and award dated 5.4.1990 had granted three months time to the petitioner management to make payment of arrears. Said amount is not paid till date. Therefore, a direction may be issued to the petitioner management to make said payment. The request is reasonable. While dismissing the this petition, the petitioner management is directed to make payment of arrears latest by 31st January 2001. In case they fail to make payment by the aforesaid date, the management shall then make payment of arrears with interest at the rate 12 per cent per annum.

3. Mr.Ketan Dave, learned advocate appearing for respondent no.1 insisted that respondent no.1 be awarded interest on the amount, which otherwise became payable under the judgement and award of the Tribunal dated 5.4.1990 and in any case the interest be awarded from the date of the order of this Court in Civil Application No.148 of 1992, i.e. 10.4.1992. The request of Mr.Dave, though reasonable, is not required to be accepted in the facts and circumstances of the case. The management has

already reinstated respondent no.1 and he is working since then with the institution. Awarding of interest may unnecessarily result into straining of relations between the parties. Hence the request of Mr.Dave is not entertained.

4. The petition is dismissed. Rule is discharged. Interim relief is vacated. No order as to costs.

16th October 2000 (Ravi R. Tripathi, J.)

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